

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20054

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In the Matter of)
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Implementation of the Subscriber Carrier)
Selection Changes Provisions of the)
Telecommunications Act of 1996)
)
)
Policies and Rules Concerning)
Unauthorized Changes of Consumers')
Long Distance Carriers)

CC Docket No. 94-129

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COMMENTS OF
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Dated: March 18, 1999

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COMMENTS OF RCN TELECOM SERVICES, INC.

RCN Telecom Services, Inc., and its affiliates (collectively "RCN"), by its undersigned counsel and pursuant to the Federal Communications Commission's ("Commission" or "FCC") February 16, 1999 Public Notice, respectfully submits these Comments on the Second Report and Order and Further Notice of Proposed Rulemaking in the above-captioned proceeding.¹ RCN is a provider of local and long distance telephone, video and Internet access services, primarily oriented toward the residential market. As such, RCN has a substantial interest in assuring that the Commission adopts policies and rules which ensure that consumers are provided adequate protection against slamming but which do not place burdens on authorized carriers which unnecessarily increase the cost of providing service. Accordingly, RCN has an interest in the rules that may be

¹ *In the Matter of Implementation of the Subscriber Carrier Selection Changes Provisions of the Telecommunications Act of 1996; Policies and Rules Concerning Unauthorized Changes of Consumers Long Distance Carriers*, Second Report and Order and Further Notice of Proposed Rulemaking, CC Docket No. 94-129 (rel. Dec. 23, 1998) ("NPRM").

adopted in this proceeding and urges the Commission to modify and clarify certain aspects of its proposed rules.

I. INTRODUCTION AND SUMMARY

In this proceeding, the Commission considers certain amendments to its existing slamming rules in order to remove the profit from slamming, create additional incentives for authorized carriers to identify and pursue recovery against slammers, and to strengthen the Commission's ability to monitor and investigate slamming complaints. RCN supports the Commission's efforts to balance the important goals of protecting the consumer and promoting competition in the industry and recognizes that the Commission's "ultimate concern in this proceeding is protecting consumers and consumer choice." *NPRM*, ¶ 16.

RCN also supports many of the Commission's proposed changes and new regulations reflected in the *NPRM*, but respectfully submits that the Commission must ensure that its regulations do not become overly burdensome on carriers. Regardless of the slamming regime the Commission puts into place, offenders will continue to ignore those rules. Increased prosecution of such offenders is appropriate. But if the Commission's rules unnecessarily limit carriers' ability to market their service efficiently, any incremental benefit consumers may realize as a result of such measures will be outweighed by the negative impact of the burden of complying with those requirements.

II. COMMENTS

A. The Commission Should Permit Subscribers To Submit Carrier Change Requests And Initiate And/Or Lift Preferred Carrier Freezes Via the Internet

RCN respectfully urges the Commission to permit subscribers to submit carrier changes and initiate and/or lift preferred carrier ("PC") freezes via the Internet. Providing subscribers the

additional option of utilizing the Internet to select an alternative carrier gives many consumers greater flexibility than other methods of changing carriers. For example, a subscriber can submit a carrier change over the Internet at any time of the day, seven days a week, without having to worry about customer service hours, being placed on hold, or preparing and mailing a written request. Further, the Internet is fast becoming an important means through which consumers conduct banking and other personal and business transactions, purchase goods and services, and make airline, hotel, and other travel reservations. As consumer confidence in the security of the Internet for these types of transactions increases, a greater number of consumers may choose to rely on the convenience and efficiency of the Internet for personal and business transactions. This Commission has itself recognized that the Internet offers "a quick and efficient method of signing up new subscribers and should be made widely available." *NPRM*, ¶ 169. In such circumstances, permitting consumers to submit carrier changes and initiate and/or lift PC freezes over the Internet will provide consumers significantly more flexibility and greater convenience with respect to changing aspects of their telephone service without sacrificing safety.

Further, if a subscriber making a carrier change over the Internet submits credit card or other appropriate verification information, the change order should be considered verified. As the Commission suggests, orders submitted via the Internet should include valid credit card information, social security number, mother's maiden name, or other personal information that would adequately verify that the individual making the change is the subscriber or individual authorized to make changes to the account. As with existing third party verification procedures, a subscriber's signature need not be required to identify the subscriber and verify a carrier change and/or PC freeze request if other sufficient verifying information is obtained from the subscriber.

Furthermore, carriers can provide superior customer service efficiently using the Internet. Carriers have determined that use of the Internet for billing purposes, including both presenting billing statements and responding to billing inquiries, improves customer service and creates significant savings in administrative costs. Similar improvements in customer service and cost savings could be recognized if subscribers are permitted to change their authorized carrier and lift and/or initiate PC freezes via the Internet.

B. The Commission Should Permit Authorized Carriers To Collect Amounts From Unauthorized Carriers In Addition To The Amounts Paid By Slammed Customers

RCN supports the Commission's proposal to require an unauthorized carrier to remit certain amounts to the authorized carrier in addition to any amounts collected from a slammed consumer. Specifically, where a subscriber has paid an unauthorized carrier, the Commission proposed to permit the authorized carrier to collect double the amount of charges paid by the subscriber during the first thirty days after the unauthorized change. Where a subscriber has not paid an unauthorized carrier, the Commission proposed to permit the authorized carrier to collect from the unauthorized carrier either an amount equal to what the unauthorized carrier would have billed the subscriber for the first thirty days after the slam occurred or, alternatively, an amount equal to what the authorized carrier would have billed the subscriber for the same thirty-day period. *NPRM*, ¶¶ 141-142.

The Commission's proposals are consistent with the requirements of Section 258 and provide a strong disincentive against slamming. In addition to protecting consumers from slamming by absolving the consumer of any charges incurred during the first thirty days after a slam takes place, the Commission's proposed rule also provides an additional incentive for authorized carriers to

pursue vigorously their claims against slammers. In particular, the Commission's proposal provides authorized carriers an economic incentive for identifying and pursuing slammers.

C. The Commission Should Permit Options for Third Party Verification

In the *NPRM*, the Commission clarifies that an independent third party verifier must be truly independent from both the carrier and the telemarketer soliciting subscriber carrier changes. With this clarification, RCN respectfully submits that the Commission has established sufficient guidelines for independent third party verification such that a carrier can create marketing programs and approaches that enable the carrier properly to solicit customers and obtain verification without imposing an unreasonable burden or expense on the carrier. As such, the Commission's existing independent third party verification rules serve the public interest.

RCN submits that a carrier's telemarketers should continue to be allowed to play a limited role in the verification process. For instance, the telemarketer should be permitted to remain on the line in order to answer any questions the subscriber may have about the verification process itself, his or her change in service, or any other service or technical matter -- questions a purely automated system or third party verifier would be unable to address. The system should continue recording any of these types of exchanges in the event the subscriber claims that the telemarketer improperly influenced the subscriber's decision. Permitting the telemarketer to remain available to respond to a subscriber's questions during the course of a verification enhances a carriers' ability to provide quality customer service to its customers. Nonetheless, although telemarketers do serve a specific purpose with respect to the verification of a subscriber's carrier change (*e.g.*, establishing the third-party connection, identifying the carrier they represent, indicating that the subscriber wishes to verify

a carrier change, and responding to subscriber inquiries), carrier telemarketers should not be extensively involved in the actual verification process.²

D. The Commission Should Encourage The Implementation Of A Third-party Administrator To Administer Carrier Change Functions

Although RCN believes that the establishment of an independent administrator to perform carrier change functions may have many advantages both to consumers and carriers over the existing regime, the industry is not yet prepared to offer concrete proposals for the creation of such an entity. Nonetheless, the FCC should continue to encourage the industry to develop an independent administrator for carrier changes and should remain open to industry proposals in this regard.

E. The Commission's Reporting Proposal May Impose Burdens On Carriers Not Justified by the Value To The Commission

The Commission's proposal concerning carrier submission of reports on slamming complaints may provide the FCC limited information from which to identify and pursue slammers; however, the burdens these requirements would impose on carriers outweigh any value the information may provide the FCC. The information contained in any report on slamming complaints submitted by carriers likely would be of only limited value to the Commission as it would contain only that information that the carrier deemed relevant, creating the opportunity for skewed reporting and finger pointing. As such, RCN urges the Commission to carefully weigh the limited benefits gained from these requirements against the potential costs to carriers, and perhaps consumers, of imposing the requirements.


² In the event that the Commission decides to revise its independent third party verification rules, however, it should not make the requirements unnecessarily rigorous or burdensome. Doing so will only increase the costs a carrier must incur to attract and obtain new customers and thus, may decrease the benefits passed on to consumers.

III. CONCLUSION

RCN supports the Commission's proposals, and respectfully urges the Commission to adopt the proposals described above. RCN believes that most of the Commission's proposed changes to its slamming rules will provide additional protections for consumers and will further the Commission's goal of identifying and eliminating slammers without adversely impacting the ability of carriers competitively to provide quality services to their subscribers. RCN respectfully urges the Commission to carefully weigh the value of a reporting requirement against the burden on carriers.

Respectfully submitted,

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